



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 4240-99
2 February 2001

MAL [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Major [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested that your failures by the Fiscal Year (FY) 1999 and 2000 Major Selection Boards be removed; that your record be corrected to show you were not separated on 1 October 1999, but have continued to serve on active duty as a Marine Corps Reserve officer since that date (impliedly requesting that you be recommended for a Regular Marine Corps commission); and that the date of rank and effective date of your Marine Corps Reserve promotion to major be adjusted to reflect selection by the FY 1999 promotion board.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 February 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 3 November 1999, the 21 August 2000 approval by the Secretary of the Navy of your special selection board request, and a memorandum for the record dated 22 January 2001, copies of which are attached. They also considered your letter dated 17 December 1999 with enclosure.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that your failures of selection by the FY 1999 and 2000 Major Selection Boards should stand. In this connection, they substantially concurred with the comments

contained in the advisory opinion from MMOA-4 in finding that your selection would have been definitely unlikely, even if your record had not included the later removed reviewing officer comments in your fitness reports for 27 June to 31 December 1992, 1 January to 11 June 1993, and 12 June to 23 July 1993. You say these comments caused you to believe your "days as a Marine were over," so you did not finish non-resident Amphibious Warfare School; and that after you reenrolled in 1996, you did not complete the course until October 1998 because you put the needs of your subordinates ahead of your own. They found these were choices you voluntarily made, so they did not support disregarding that portion of the MMOA-4 opinion concerning Professional Military Education. Finally, while the Board duly noted the approval of your request for a special selection board, they observed that the Secretary of the Navy provided no information serving to refute the MMOA-4 opinion.

Since the Board found insufficient basis to remove your failures by the FY 1999 and 2000 Major Selection Boards, they had no grounds to show that you were not separated on 1 October 1999, or to backdate your promotion to major.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1600
MMAA-4
3 Nov 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Captain C [REDACTED] USMC
of 26 Oct 99

1. Recommend disapproval of Captain [REDACTED] request for removal of his failures of selection.
2. Per the reference, we reviewed Captain [REDACTED] record and petition. He failed selection on the FY99 USMC Major Selection Board. He successfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Reviewing Officer comments from the Semiannual fitness report of 920727 to 921231, the Change of Reporting Senior fitness report of 930101 to 930611, and the Transfer fitness report of 930612 to 930723. Subsequently, he failed selection on the FY00 USMC Major Selection Board. Captain [REDACTED] requests removal of his failures of selection.
3. In our opinion, the petitioned reports do present competitive concern to the record. However, Captain [REDACTED] has other areas of competitive concern in his record that contributed to his failure of selection.
 - a. **Section B Marks.** The record reflects less competitive Section B marks in Administrative Duties, Training Personnel, Cooperation, Initiative, Judgment, Personal Relations, and Economy of Management.
 - b. **Overall Value and Distribution.** Captain [REDACTED] overall Value and Distribution marks are less competitive. He has twenty officers ranked above him and twenty-two below, placing him in the middle of the pack. Of particular note, while serving in company commander billets he has twelve officers ranked above and five below, placing him near the bottom of the pack while serving in key leadership billets in his MOS.

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

c. Change of Reporting Senior Report of 940819 to 941110.

While the Operations Officer at the School of Infantry, Captain [REDACTED] receives less competitive Section B marks in Initiative, Judgment, Personal Relations and Economy of Management. He is ranked Excellent to Outstanding overall. The Reviewing Officer states, "Developing broader view of the issues of command."

d. Professional Military Education (PME). Captain [REDACTED] had

not completed the requisite PME for his grade as required by Marine Corps Order P1553.4 prior to the convening of the FY99 Board. We note, the AWS Phase II completion certificate is dated 23 Oct 1998, twenty-five days prior to the convening of the FY00 Board.

4. In summary, we believe Captain [REDACTED] petition is without merit. Though the petitioned reports presented competitive concern, his record has other areas of competitive concern that contributed to his failure of selection. Therefore, we recommend disapproval of Captain [REDACTED] request for removal of his failures of selection.

5. Point of contact is Major [REDACTED]



Lieutenant Colonel, U.S. Marine Corps
Head, Officer Career Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, DC 20380-1775

IN REPLY REFER TO:
5800
JA

12 APR 2000

MEMORANDUM FOR SECRETARY OF THE NAVY

Subj: SPECIAL SELECTION BOARD (SSB) REQUEST IN THE CASE OF
CAPTAIN [REDACTED] USMC

Ref: (a) Navy JAG Memo 1400 Ser 13/1PL12623.99 of 23 Nov 99

Encl: (1) Proposed CMC Memorandum for SecNav

1. I have carefully reviewed reference (a) to include the Judge Advocate General of the Navy's opinion that granting Captain [REDACTED] request for a special selection board (SSB) would be legally objectionable. I continue to believe, however, that Captain [REDACTED] request should be approved.

2. I do not agree with the Judge Advocate General of the Navy's opinion that Captain [REDACTED] failed to exercise reasonable diligence in attempting to correct an error in his record prior to the FY99 USMC Major Promotion Selection Board. In his SSB request, Captain [REDACTED] states that his delay in seeking redress from BCNR until 1998 was based on his failure of augmentation, separation from active-duty, and high-operational tempo after return to active-duty. I find this explanation reasonable in light of Captain [REDACTED] age and experience, and renew my recommendation for an SSB.

[REDACTED]

Commandant of the Marine Corps

FOR DECISION BY THE SECRETARY OF THE NAVY

Approve Special Selection Board Request [REDACTED]

Disapprove Special Selection Board Request _____

Other _____

MEMORANDUM FOR THE RECORD

DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)
PERFORMANCE SECTION
2 NAVY ANNEX, SUITE 2432
WASHINGTON, DC 20370-5100
TELEPHONE: DSN 224-9842 OR COMM (703) 614-9842
FAX: DSN 224-9857 OR COMM (703) 614-9857

DATE: 22JAN01

DOCKET NO. [REDACTED]

PETITIONER (PET): M. [REDACTED] SMCR

PARTY CALLED: [REDACTED] N, USMCR, HQMC MMOA-4

TELEPHONE NUMBER: (703) [REDACTED]

WHAT I SAID: I REQ THAT [REDACTED] RENDER AN OPINION RE PET'S REQ FOR BACKDATING.

WHAT PARTY SAID: [REDACTED] INFORMED ME THAT SHE DID NOT SUPPORT HIS REQ. SHE STATED THAT THE REG COMPONENT WAS MUCH MORE DIFFICULT TO GET PROM IN, AND REITERATED THE COMPETITIVE JEOPARDY THAT IS LISTED IN PET'S MMOA-4 AO DTD 3NOV99.

[REDACTED]
[REDACTED] GE